

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

FILED
JUL 10 2007
U.S. DISTRICT COURT
WHEELING, WV 26003

DAVID R. DOWDELL,

Plaintiff,

v.

MICHAEL J. ASTRUE,
Commissioner of
Social Security,

Defendant.

CIVIL ACTION NO. 5:06-CV-94

ORDER

Upon consideration of the Commissioner's Motion to Remand and Plaintiff's agreement thereto, it is hereby

ORDERED that the Appeals Council remand this case to the Administrative Law Judge to obtain the testimony of a medical advisor and to consider further the treating physicians' opinions and Plaintiff's subjective complaints due to fibromyalgia and myofascial pain syndrome. The Appeals Council finds no basis to reopen the subsequent application, after reviewing the associated evidence. Specifically, it finds no error on the face or new and material evidence, and thus declines to reopen. Therefore, on remand, the Appeals Council will direct the ALJ to consider the issue of disability though August 15, 2004, the day before the onset date established by the subsequent allowance, and determine whether or not an earlier onset date is appropriate.

This remand is ordered pursuant to the fourth sentence of 42 U.S.C. § 405(g). This case is hereby dismissed.

DATED:

July 10, 2007

Fredrick P. Stimpert
UNITED STATES DISTRICT JUDGE